
Thursday
August 25, 1988

Part VII

**Environmental
Protection Agency**

Proposed Effluent Guidelines; Notice

Proposed Effluent Guidelines

**ENVIRONMENTAL PROTECTION
AGENCY****[FRL-3386-8]****Proposed Effluent Guidelines****AGENCY:** Environmental Protection Agency.**ACTION:** Notice of proposed plans to implement section 304(m) of the Water Quality Act.

SUMMARY: This notice announces the Agency's proposed plans for reviewing existing effluent guidelines and promulgating new effluent guidelines to implement section 304(m) of the Clean Water Act, as amended by the 1987 Water Quality Act (Pub. L. 100-4). EPA is requesting comment on all aspects of its proposed plans and the criteria used to select existing guidelines for review and revision and to select new industrial categories for the promulgation of effluent guidelines.

DATE: Comments must be received on or before October 24, 1988.

ADDRESS: Comments should be addressed to Ms. Marion Thompson, Industrial Technology Division (WH-552), U.S. Environmental Protection Agency, 401 M St. SW., Washington DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas O'Farrell, Industrial Technology Division (WH-552), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, telephone 202-382-7137.

SUPPLEMENTARY INFORMATION:**I. Legal Authority**

This notice is published under the authority of section 304(m) of the Clean Water Act, 33 U.S.C. 1251 *et seq.*, (as amended most recently by the Water Quality Act of 1987, Pub. L. 100-4). The 1987 Water Quality Act ("WQA") added new requirements to section 304 of the Clean Water Act.

II. Background**A. Statutory Requirements and the Effluent Guidelines Program**

The Clean Water Act (CWA) controls the discharge of pollutants into the nation's surface waters. Specifically, section 301(a) prohibits the discharge of any pollutant by any person except in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act.

Wastewaters from industrial sources are discharged into the nation's surface waters in two principal ways: Directly into surface waters of the United States by direct dischargers, or indirectly through publicly owned treatment works (POTWs) by indirect dischargers.

Industrial wastewaters from indirect dischargers mixed with domestic and commercial wastewaters in municipal collection systems are treated at municipal treatment systems (POTWs) and discharged to surface waters.

Industrial and municipal wastewaters have been found to contain pollutants which harm receiving waters, aquatic life, and human health. The Federal Water Pollution Control Act (FWPCA) of 1972 established a program to restore and maintain the integrity of the nation's waters. To implement the Act, Congress directed EPA to issue effluent guidelines, pretreatment standards, and new source performance standards for industrial dischargers. These regulations were to be based principally on the degree of effluent reduction attainable through the application of treatment technologies. In 1977, the amendments to the FWPCA, known as the Clean Water Act Amendments, stressed additional control of 65 toxic compounds or classes of compounds (from which EPA later developed a list of 126 priority pollutants). To further strengthen the toxic control program, section 304(e), added by the 1977 amendments, authorizes the Administrator to establish management practices to control toxic and hazardous pollutants in plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage.

The CWA calls for achieving technologically based effluent limitations for industrial direct dischargers in two stages. First, section 301(b)(1)(A) directed the achievement of effluent limitations requiring application of the best practicable control technology currently available (BPT). Effluent limitations based on BPT are generally to represent the average of the best treatment technology performance in an industrial category. Second, for the toxic pollutants listed in section 307(a) and for nonconventional pollutants, section 301(b)(2)(A), (C), (D) and (F) directed the achievement of effluent limitations requiring application of the "best available technology economically achievable" (BAT). Effluent limitations based on BAT are to represent at a minimum the best treatment technology performance in the industrial category that is technologically and economically achievable. For conventional pollutants listed under section 304(a)(4), section 301(b)(2)(E) directed effluent limitations based on the performance of best conventional pollutant control technology (BCT).

To ensure that such limitations remain current with the state of the industry and with available treatment technologies, section 304(b) require EPA

to revise effluent limitations and guidelines at least annually if appropriate. In addition, section 301(d) also required the Agency to review and revise, if appropriate, any effluent limitation required by section 301(b)(2), pursuant to procedures established under that section. Section 306 provided for technology-based standards for new sources (known as new source performance standards, or NSPS). These standards must be based on the best demonstrated control technology, processes, operating methods, or other alternatives.

Section 402 of the CWA provided for the issuance of permits to direct dischargers under the National Pollutant Discharge Elimination System (NPDES). These permits, which are required by section 301, are issued either by EPA or by a State agency approved to administer the NPDES program. Individual NPDES permits must incorporate applicable technology-based limitations contained in guidelines and standards for the industrial category in question. Where EPA has not promulgated applicable technology-based effluent limitations and guidelines for an industry, section 402(a)(1)(B) provided that the permit must incorporate such conditions as the Administrator determines are necessary to carry out the provisions of the Act. In other words, the permit writer uses best professional judgment (BPJ) to establish limitations for the dischargers.

Indirect dischargers are regulated by the general pretreatment regulations (40 CFR Part 403) and pretreatment standards for new and existing sources (PSNS and PSES) covering specific industrial categories. These standards under sections 307 (b) and (c) apply to the discharge of pollutants from industrial sources which interfere with or pass through POTWs. Pretreatment standards are enforced by POTWs or by State or Federal authorities. The standards covering specific industries are generally analogous to the limitations imposed on direct dischargers.

B. New Requirements: Section 304(m)

On February 4, 1987, the Water Quality Act of 1987 became effective. The WQA strengthens the CWA through changes designed to improve water quality. One of these changes, the addition of section 304(m), requires EPA to publish the Agency's plans to review and revise existing effluent guidelines and promulgate new guidelines for dischargers of toxic and nonconventional pollutants.

Specifically, section 304(m)(1) requires the Agency to publish in the *Federal Register* a plan to review and revise existing effluent guidelines and to identify and promulgate guidelines for categories discharging toxic and nonconventional pollutants for which guidelines have not been previously published. The plan must establish a schedule for the annual review and revision of promulgated effluent guidelines; must identify industrial categories discharging toxic or nonconventional pollutants that are not covered by promulgated guidelines under sections 304(b)(2) and 306; and must establish a schedule for promulgating guidelines for the industrial categories so identified. In the case of industrial categories for which guidelines have not been promulgated that are listed in the first published plan, EPA must establish a schedule which calls for promulgation of effluent guidelines within four years after enactment of the WQA. For categories listed in later plans, the schedule must call for promulgation of guidelines within three years after publication of the plan in question.

Section 304(m)(2) also requires EPA to provide for public review and comment on the plan before final publication.

III. Purpose

The purpose of today's Notice is to describe EPA's plans to implement Section 304(m). The notice will: (1) identify industries for which new or revised guidelines and standards are currently being developed; (2) describe the procedures followed by the Agency in selecting and evaluating additional candidates for new or revised guidelines and standards; (3) explain the criteria the Agency will consider when deciding whether to initiate rulemakings for these industries; and (4) solicit public comment on all aspects of today's notice.

Appendix A of this Notice lists existing industrial categories or subcategories that EPA is reviewing as potential candidates for revised guidelines. This review is required by section 304(m)(1)(A). EPA will, as needed, revise this list. Section 304(m) requires EPA to publish schedules for the annual review and revision of existing guidelines. If and when EPA decides to initiate rulemakings for any of these industries, it will identify the industries in a subsequent *Federal Register* notice pursuant to section 304(m).

Appendix B is a list of industrial categories and subcategories discharging toxic and nonconventional pollutants for which BAT guidelines and

NSPS have not been promulgated. These categories are under review as potential candidates for BAT guidelines and NSPS. Most were selected for section 304(m)(1)(B) review because of Domestic Sewage Study findings (see Section V). If the Agency decides that rulemaking is appropriate for these industrial categories, it will, pursuant to section 304(m), publish schedules for these guidelines that call for promulgation not later than three years after final identification of the industries in the *Federal Register*.

Although section 304(m) mandates the publication of schedules both for reviewing and revising existing guidelines and for promulgating new guidelines and standards, only in the case of new guidelines and standards does the schedule include a date for promulgation (three years after publication of the *Federal Register* notice identifying the industrial category in question). EPA interprets section 304(m) to mean that these "new" industries are categories or subcategories for which BAT guidelines and NSPS have not previously been promulgated (even though BPT guidelines may have been promulgated). New industries are subject to the above-mentioned three-year promulgation schedule. An "existing" industry under section 304(m) is a category or subcategory for which BAT guidelines have been promulgated. Existing industries are not subject to a schedule for promulgation.

Part IV of this Notice describes industries and subcategories currently being revised. Parts V and VI of this Notice describe EPA procedures for selecting and evaluating both existing industries (for review and revision) and new industries (for consideration for rulemaking) and the criteria for deciding whether to initiate rulemaking. To the extent necessary, these procedures and criteria will be modified to reflect specific Congressional or judicial directives.

EPA is including in this notice plans for new or revised pretreatment standards for indirect dischargers, as well as new or revised new source performance standards. The Agency recognizes that section 304(m) does not require EPA to review and revise such standards or to promulgate such standards except for new source performance standards for industries not heretofore covered by them. Nevertheless, EPA has in the past generally proposed these standards for an industrial category when guidelines for direct dischargers in that category were proposed. The Agency will continue to do this in the future,

whenever appropriate. Therefore, plans presented in this notice cover new source performance and pretreatment standards as well as effluent limitations and guidelines for direct dischargers.

IV. Development of New or Revised Guidelines; Industries Already Identified

For six industrial categories, EPA has activities underway that are anticipated to result in the promulgation of new or revised effluent guidelines and standards. One involves a promulgated rulemaking for which EPA has initiated a new rulemaking for the entire industrial category in response to a court ordered remand. One of these is an industry subcategory for which the Agency does not currently have BAT guidelines and new source performance standards. In three other cases, legal challenges to promulgated regulations led to negotiated agreements to settle litigation by initiating rulemaking. Negotiated agreements usually follow discussions with litigants who may demonstrate by various means (including the submission of technical data) the need for adjustments to some parts of a promulgated guideline. For the sixth activity the Agency has decided to proceed with revisions to an existing guideline.

A. Pesticide Manufacturers, Packagers, and Formulators (40 CFR Part 455)

EPA is preparing a proposed regulation establishing guidelines and standards for the pesticide chemical point source category. Following legal challenge, the Agency determined that there were errors in the data base used to derive the numerical limitations in the pesticide regulation published on October 4, 1985 (50 FR 40672). EPA therefore filed a motion with the U.S. Court of Appeals for the Eleventh Circuit requesting a remand of the regulation to the Agency for reconsideration of the rule. On July 25, 1986, the Court granted EPA's motion. The currently valid effluent guidelines for the pesticide industry set BPT limitations only. Section 301(f) of the WQA required BAT guidelines to be promulgated for this industry by December 31, 1986.

In addition to promulgating defensible regulations to replace those remanded by the Court of Appeals, it is anticipated that the guidelines and standards published for this industry will include limitations for other pollutants not identified by the remanded regulation. The Agency's preliminary analysis shows significant changes in the industry requiring a major data collection effort. EPA expects to

promulgate a final rule in this industrial category in 1991.

Offshore Oil and Gas Extraction (40 CFR Part 435)

EPA promulgated effluent limitations and guidelines (40 FR 42543, September 15, 1975) and proposed additional guidelines and standards (40 FR 42572, September 15, 1975) for the offshore segment of the oil and gas extraction point source category. In a Settlement Agreement entered in an action brought in 1979 by the Natural Resources Defense Council (NRDC) and joined by the American Petroleum Institute (API) *NRDC v. Costle*, C.A. No. 79-3442, D.D.C.), the Agency agreed to develop final NSPS to control discharges from offshore oil and gas facilities. These activities generate wastes that include produced water, deck drainage, drilling muds, fluids and cuttings, produced sand, and sanitary and domestic wastes.

Subsequent to the Settlement Agreement, EPA withdrew the NSPS and BAT regulations, which had been promulgated in 1975; and collected and examined data that became available since the earlier proposal. The Agency has since evaluated current and projected offshore drilling and production activities, drilling fluid characteristics, old and new alternative treatment technologies, environmental impacts, and economic costs of pollution control. EPA has also used analytical protocols to confirm the presence of and further quantify concentrations of toxic pollutants in produced water discharges at 30 production facilities in the Gulf of Mexico. Priority pollutant sampling efforts were also conducted at sites in Alaska and California.

On August 25, 1985, EPA repropoed NSPS and BAT effluent limitations. In the same notice, the Agency also proposed best conventional technology (BCT) effluent limitations and certain amendments to BPT effluent limitations (50 FR 34592). EPA has met periodically with representatives of NRDC and API to inform them of the Agency's progress in fulfilling the terms of the Settlement Agreement. The Agency plans to publish, in the next few weeks, a Federal Register notice of availability for review of the additional data collected. EPA also plans to repropoed BCT effluent limitations in late 1988. The final BAT and BCT effluent limitations and NSPS for drilling wastestreams are expected to be promulgated in 1990, at which time the proposed amendments to the BPT effluent limitations will also be addressed.

C. Nonferrous Metals Forming (40 CFR Part 471)

On August 23, 1985, EPA promulgated effluent guidelines and standards for the nonferrous metals forming category (50 FR 34242). In response to several challenges to the rule, on November 5, 1986, the Agency entered into a settlement agreement in which it agreed to propose amendments to BPT and BAT effluent limitations guidelines, NSPS, PSES, and PSNS in the nickel-cobalt forming and zirconium-hafnium forming subcategories (*Inco Alloys International, Inc. v. EPA, General Electric Co. v. EPA*, U.S. Court of Appeals for the Sixth Circuit, Consolidated Nos. 86-3091 and 86-3092). The Agency plans to propose the amendments in 1988.

D. Nonferrous Metals Manufacturing (Phase II-40 CFR Part 421)

On September 20, 1985, EPA promulgated final effluent limitations guidelines and standards for portions of this industrial category (50 FR 38726). The regulation was challenged by several regulated parties. On May 19, 1987, EPA entered into another settlement agreement in which it agreed to propose to amend BPT and BAT limits, NSPS, PSES, and PSNS in the primary beryllium subcategory (*Brush Wellman, Inc. v. EPA*, U.S. Court of Appeal for the Third Circuit, No. 86-3072). On May 20, 1987, the Agency entered into a settlement agreement in which it agreed to propose to amend BPT and BAT limits, NSPS, PSES, and PSNS for the secondary precious metals subcategory (*Englehard Co. v. EPA, Johnson Matthey, Inc. v. EPA*, United States Court of Appeals for the Third Circuit, Consolidated Nos. 85-3694 and 85-3726). In addition, on June 8, 1987, EPA entered into a settlement agreement in which the Agency agreed to propose new effluent limitations and guidelines and standards for the secondary molybdenum and vanadium subcategory (*Gulf Chemical and Metallurgical Company v. EPA*, U.S. Court of Appeals for the Third Circuit, No. 86-3039).

Finally, on June 9, 1987, the Agency entered into a settlement agreement in which the Agency agreed to propose to suspend certain BAT effluent limitations, NSPS, and PSNS in the metallurgical acid plant subcategory and to propose to suspend certain BPT and BAT effluent limitations, NSPS, and PSNS in the primary molybdenum and rhenium subcategory. The Agency also agreed to propose amendments to BPT and BAT effluent limitations, NSPS, PSES, and PSNS in the secondary

tungsten and cobalt subcategories (*Ammax, Inc. v. EPA, GTE Products Corp. v. EPA*, U.S. Court of Appeals for the Third Circuit, Consolidated Nos. 85-3560 and 85-3625). EPA plans to propose all of the above amendments in 1988.

E. Aluminum Forming (40 CFR Part 467)

On October 24, 1983 (48 FR 49126) and March 27, 1984 (49 FR 11629), EPA promulgated final effluent limitations guidelines and standards for the aluminum forming category. Under a Settlement Agreement (*Aluminum Association, Inc. et al. v. EPA, Aluminum Extruders Council, et al. v. EPA*, U.S. Court of Appeals for the Sixth Circuit, Consolidated Nos. 84-3090 and 84-3091), EPA has agreed to propose to amend portions of the aluminum forming regulation or to add preamble language relating to: (1) Nonscope waters; (2) discharge allowance for hot water seal; (3) the BAT and PSES pollutant discharge allowances for the cleaning or etching rinse in the extrusion and forging subcategories (Subparts C and D, respectively); (4) the discharge allowance for the alternative monitoring parameter of oil and grease for PSES; (5) the BPT and NSPS requirement for pH in the direct chill casting contact cooling water ancillary operation; and (6) the addition of a definition for hot water seal to the general definitions of 40 CFR Part 467. These amendments were proposed on March 19, 1986 (51 FR 9618) and the Agency expects to promulgate final amendments in 1988.

F. Pulp, Paper, and Paperboard Manufacturing (40 CFR Parts 430 and 431)

EPA promulgated effluent limitations guidelines and standards for the pulp, paper, and paperboard point source category on November 18, 1982 (47 FR 52006). Since that time, results received from the *National Dioxin Study* indicate that dioxin was present in fish samples collected downstream from pulp and paper mills. EPA then conducted a dioxin study at five pulp and paper mills (U.S. EPA/Paper Industry Cooperative Dioxin Screening Study or "Five Mill Study"), and dioxin was detected in most of the wastewater sludges, treated effluents, and bleached pulps from all five pulp and paper mills.

A second EPA/Paper Industry Cooperative Study, signed on April 25, 1988, will obtain additional information on dioxin discharges from approximately 105 mills that use chlorine or chlorine derivatives to bleach chemical wood pulp. In addition, the Agency has initiated sampling for additional pollutants of concern. Data

gathered in these efforts will be used to revise the BAT effluent limitations, new effluent performance standards, and effluent treatment standards for the pulp, paper, and paperboard industry.

V. Selecting and Evaluating Potential Candidates for New or Revised Guidelines and Standards

As discussed above, section 304(m) requires the Agency to publish plans and schedules for reviewing and revising existing guidelines and for promulgating new guidelines and standards for industrial categories that discharge toxic and nonconventional pollutants and that are not covered by existing BAT effluent guidelines or NSPS. However, neither the WQA nor the CWA specifies how priorities for review and revision of the guidelines should be established or how new industries should be selected for regulation. The Agency has developed, therefore, a general strategy for selecting and evaluating industries that are potential candidates for new or revised effluent limitations guidelines and standards. Following is a discussion of that strategy.

A. Selection of Candidates for Evaluation

1. Reviewing Technical Studies and Reports

Technical studies and reports on various industries or on significant pollution problems are a valuable source of information in determining which effluent limitations guidelines or standards may need to be revised. Data collected from States, EPA researchers, permittees, etc., identify industries that have discharges that cause adverse impacts on the water quality. The types of information include data from: 1) Compliance monitoring activities by State and Federal regulatory agencies to assess compliance with permits; 2) toxicity reduction evaluations, which combine toxicity testing (biomonitoring data obtained from biosurveys or bioassays), chemical tests, and treatment analysis to determine either the actual causative toxicants or the treatment methods that will reduce effluent toxicity; 3) data on stream loadings and dilution, stream models, discharge data, bioaccumulation studies, fish kill reports, and citizen complaints; 4) data from other streams of similar size and watershed characteristics with the same aquatic ecological conditions; and 5) information submitted under the Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III, Community Right to Know.

Moreover, water quality data collected from studies performed under the CWA section 304(1) and from biomonitoring studies may identify specific types of point sources that need new or revised technology-based effluent regulations under section 304(m). Section 304(1) specifically requires EPA to: (1) Identify and list waters impaired by sources of toxic pollution as specified by the CWA; (2) identify facilities and amounts of pollutants causing impairment; and (3) develop Individual Control Strategies for these facilities. Part of the Agency's strategy for implementing this Section is to focus immediate attention on controls where there are impacts due entirely or substantially to point source discharges of section 307(a) pollutants as well as to identify other high priority water quality impairment problems caused by other pollutants of concern.

Examples of technical studies or reports include: the *National Dioxin Study* (National Dioxin Study, Tier 3, 5, 6, and 7, U.S. EPA, Office of Water Regulations and Standards EPA 400/4-87/003, February 1987); the Report to Congress on Hazardous Constituents in Oil and Gas Facilities (Report to Congress on the Management of Wastes from Oil and Gas Exploration, Development, and Production, U.S. EPA, Office of Solid Waste, RCRA Docket No. F88-OCRA-FFFFF, December 1987); and the Domestic Sewage Study (Report to Congress on the Discharge of Hazardous Wastes to Publicly Owned Treatment Works, U.S. EPA, Office of Water Regulations and Standards, EPA 530-SW-86-004, February 1986). Of these, the Domestic Sewage Study addresses the largest number of dischargers and industrial categories.

The Domestic Sewage Study (DSS) was prepared by EPA pursuant to the mandate of section 3018(a) of RCRA. This provision requires the Agency to evaluate the impact of RCRA hazardous wastes discharged to POTWs. As a follow-up to the DSS, section 3018(b) of RCRA directs the Administrator to revise existing regulations and to promulgate such additional regulations as are necessary to ensure that hazardous wastes discharged to POTWs are adequately controlled to protect human health and the environment.

In the DSS (submitted to Congress in February, 1986) EPA examined the nature and sources of hazardous wastes discharged to POTWs; measured the effectiveness of EPA's programs in dealing with such discharges; and recommended ways to improve the programs to achieve better control of hazardous wastes entering POTWs. One

of the specific recommendations of the Study was that EPA evaluate several industrial categories to determine whether new or revised categorical pretreatment standards should be promulgated to achieve such improved control.

Although the Domestic Sewage Study was intended to deal primarily with indirect dischargers, the findings of the DSS are useful in evaluating direct dischargers because direct and indirect dischargers do not differ significantly in the amounts or kinds of pollutants in the wastewater. Similarly, although the DSS focused on hazardous constituents under RCRA, these constituents include all toxic and many nonconventional pollutants under the CWA.

2. Consultation with EPA Regions, States, and POTWs

A second important source of information is the experience of people who implement the Agency's water pollution control programs. Under the CWA, EPA Regions and State permitting authorities are responsible for translating effluent limitations guidelines into limits in NPDES permits issued to individual dischargers. States and Regions are also responsible for enforcing these limits; POTWs are generally responsible for implementing the categorical pretreatment standards. They are therefore likely to have the most intimate working knowledge of the existing guidelines and standards, and of discharges that warrant new or better control because of environmental incidents or new process and control technologies.

EPA Headquarters routinely meets with EPA Regional Offices, States, and POTWs in several contexts. These include informal discussions, technical workshops, development of program guidance, and development of technical assistance and field support for permit writers. These meetings provide information to assist in the selection of particular industries as potential candidates for new or revised guidelines and standards because of identified problems.

3. Reviewing Legal Challenges to Promulgated Effluent Limitations Guidelines and Standards

As mentioned above, some effluent limitations guidelines and standards are reviewed or revised in response to legal challenges and litigation. Discussions with litigants may reveal additional data or other reasons not yet considered to propose changes in existing guidelines and standards.

4. Reviewing Variance Requests and Petitions

Requests by industrial dischargers for variances under the CWA may disclose technical information indicating that the effluent limitations guideline needs to be reviewed. Similarly, citizen petitions concerning particular industries and pollutants may uncover data leading to a similar conclusion.

5. Reviewing Public Comments

Comments from the public in response to this notice may provide the Agency with additional information on any of the issues presented in the notice. The Agency will consider these comments in further activities pursuant to section 304(m) review.

B. Evaluation of Selected Candidates

1. Review of Available Information

After an industry has been selected for evaluation by methods described above, EPA will review all available technical information relating to the need and opportunity for reduction of water pollution from that industry. In the case of "existing" industries (i.e., those for which BAT effluent limitations guidelines and NSPS have been promulgated), this review will determine whether any significant changes have occurred in an industry since the

collection of data supporting the existing regulation. The Agency will look again at previous sampling and analysis data and all other relevant information used to support rulemakings for the industry. EPA will then compare that information to any new data. New data may come from permit applications, technical surveys, published literature on technical or engineering aspects of pollution control within an industry, and from contacts with permitting authorities and industry representatives. EPA will consider the extent of the human health and environmental problems remaining after application of current regulations. The most important aspects of an industry that could lead to selection for possible revision of guidelines would be changes in manufacturing processes, changes in or reevaluation of achievable pollutant reduction by treatment technologies, gaps in regulated parameters, and the evaluation of the toxicity of the industrial effluents.

In the case of "new" industries (i.e., industries for which BAT effluent limitations and NSPS have not been promulgated), the Agency will conduct a view of similar factors, including changes in the industry that may have occurred since promulgation of BPT or BCT effluent guidelines for the industry.

If no guidelines have been promulgated for an industry, the Agency will rely more heavily on the contents of permit applications, published literature, and information gained from permitting authorities and industry. In particular, the Domestic Sewage Study is a good source of information on discharges of RCRA hazardous waste constituents (which are toxic or nonconventional pollutants). EPA will review all information on the industry, or similar industries, including available process change and control technology that could reduce pollutants in effluents, and the extent of the environmental problems caused by the industry's discharges to receiving waters. EPA will also attempt to determine if there are any State or local controls on these industries and evaluate these controls for effectiveness.

2. Collection of New Data

When an industry has been evaluated for new or revised guidelines as provided above, EPA will assemble a preliminary data base on the industry through questionnaires, telephone calls, and plant visits, plus other publicly available information. This data base will help the Agency to characterize influent and effluent flows and characteristics, manufacturing processes, and treatment processes. In most cases, the Agency will conduct sampling on the influent, effluent, and sludge from a small number of plants in the industry. In the case of existing industries, the results of such sampling will help determine whether previous sampling data were incomplete or are outdated. In the case of both existing and new industries, the sampling helps characterize the wastewater and sludges. In addition, new analytical methods can be used to measure pollutants which could not be measured by previous protocols.

3. Decision Document

The Agency will next prepare a decision document that contains a summary of the information collected for an industry. The document will be available to the public and will include a profile of each industry, its wastewater and sludge characteristics, treatability data for treatment technologies, treatment technologies that can be used to control discharges of toxic and nonconventional pollutants, estimated control costs, and a summary of possible environmental impact reductions that might be obtained through rulemaking. To the extent possible with available information, the decision document will make estimates

useful for applying the decision criteria in Part VI.

VI. Initiation of Rulemakings for New or Revised Guidelines and Standards: Decision Criteria

After completing the decision document, EPA will decide whether to initiate rulemaking procedures to revise or propose a guideline or standard. In making this decision, EPA will consider the following criteria:

- Legislative deadlines or court orders.
- Number and location of dischargers.
- Volume of wastewater per facility.
- Types of pollutants discharged and their significance to human health and the aquatic environment.
- Amounts of pollutants discharged to air and water and captured in sludge.
- Treatability of pollutants discharged (especially the quantity of toxics likely to be removed).
- Effects of discharges on water quality (especially demonstrated water quality impacts such as those identified under 304(1)).
- Costs and economic impacts of controls, including but not limited to cost-effectiveness analysis.
- Impact on the NPDES program.
- Impact on air emissions.
- Impact on the pretreatment program (including local limits, POTW operations, and sludge management).
- Impact on industrial sludge.
- Other factors that may arise during analysis of the industry.

When EPA decides to initiate a rulemaking to propose new or revised effluent guidelines and standards, it will propose a plan in the next biennial Federal Register notice required to be published under section 304(m) or in an earlier notice. This plan will identify the industry in question, announce EPA's decision to initiate rulemaking for the industry, and establish a promulgation schedule. The plan will also indicate the availability of the decision document. After comments are received on the proposed plan, EPA will publish a final notice. In the case of industrial categories (or subcategories) that discharge toxic or nonconventional pollutants for which BAT effluent guidelines and NSPS have not been promulgated, schedules will call for promulgation of new effluent guidelines and NSPS no later than three years after publication of that final notice.

VII. Solicitation of Comments

EPA welcomes comment on all aspects of today's notice, including EPA's proposed plans, its selection and evaluation procedures and the criteria

used to decide whether to begin rulemaking. Comments should identify the regulatory docket number and should be submitted to the address specified above. All comments submitted on or before the closing date will be considered by the Agency before publishing a final plan. Comments will be available for inspection in the EPA Public Information and Reference Unit, Room 2904, 401 M St. SW., Washington, DC 20460.

Dated: August 17, 1988.

Lee M. Thomas,
Administrator.

Appendix A

Following is a list of industrial categories or subcategories for which BAT effluent limitations and guidelines and NSPS have already been promulgated that are currently under review, pursuant to section 304(m)(1)(A), and which are potential candidates for revised effluent limitations and guidelines, or in the case of the recently promulgated organic chemicals plastics and synthetic fibers (OCPSF) regulation, where the Agency is in the process of making a determination on the further

regulation of the reserved priority pollutants, as well as nonconventional pollutants (52 FR 42544). Section 304(m) requires EPA to publish schedules for the annual review and revision of existing effluent guidelines, but does not mandate completion of review and revisions within a specified time. If and when EPA decides to initiate rulemakings for any of these industries, it will identify the industries in a subsequent Federal Register notice pursuant to section 304(m).

1. Copper Forming (40 CFR Part 468).
2. Timber Products Processing (40 CFR Part 429).
3. Textile Manufacturing (40 CFR Part 410).
4. Pharmaceutical Manufacturing (40 CFR Part 439).
5. Organic Chemicals Plastics and Synthetic Fibers (40 CFR 414, 416), (reserved priority pollutants and nonconventional pollutants).

Appendix B

Following is a list of industrial categories or subcategories discharging toxic and nonconventional pollutants for which BAT effluent guidelines and NSPS

have not been promulgated. These categories are under review, pursuant to section 304(m)(1)(B), as potential candidates for BAT effluent guidelines and NSPS. Most were selected for review because of Domestic Sewage Study findings. If the Agency decides that rulemaking is appropriate for these industrial categories, it will, pursuant to section 304(m), publish schedules for these guidelines that call for promulgation not later than three years after final identification of the industries in the Federal Register (see parts III and VI of today's notice).

1. Hazardous Waste Treaters.
2. Solvent Recyclers.
3. Machinery Manufacturing and Rebuilding.
4. Transportation.
5. Paint Manufacture and Formulation (40 CFR Part 446).
6. Industrial Laundries.
7. Hospitals (40 CFR Part 460).
8. Waste Oil Refiners.
9. Drum Reconditioners.
10. Oil and Gas (Onshore and Coastal subcategories—40 CFR Part 435).

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